

## REMARKS

Reconsideration of the present application is respectfully requested. Claims 1, 3-7, 13-15, 17-18, 23-26 and 28-34 were pending. In this amendment, claims 1, 14, and 24-26 have been amended. Claims 32-33 have been canceled. No claims have been added. Therefore, claims 1, 3-7, 13-15, 17-18, 23-26, 28-31, and 34 are presented for examination.

### Rejections under 35 USC § 103

Claims 1, 3-7, 13-15, 17, 18, 23-26, and 28-34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combined teachings of U.S. Patent No. 6,650,619 to *Schuster* et al. ("*Schuster*") in view of U.S. Patent No. 6,446,108 to *Rosenberg* et al. ("*Rosenberg*") in view of U.S. Patent No. 6,661,773 to *Pelissier* et al. ("*Pelissier*").

As suggested previously by the Examiner, Applicants have incorporated claim language of claims 32 and 33 into the independent claims. Accordingly, as amended, each of the independent claims 1, 14, 24, 25, and 26 now recites "wherein the computed back-off time period is included in a header of the outgoing back-off message and wherein the header is a hypertext transport protocol (HTTP) header." Neither *Schuster*, nor *Rosenberg*, nor *Pelissier*, individually or in combination, disclose or suggest this limitation.

The Office Action asserts on p. 8 that *Schuster* discloses a method of Internet telephony and that such a method would obviously include the use of HTTP, citing Newton's Telecom Dictionary published in 2002. Applicants respectfully traverse.

Newton's Telecom Dictionary published in 2000, which was available at the time of this application's filing in 2001, states:

**"Internet Telephony** In the very beginning, Internet telephony simply meant the technology and the techniques to let you make voice phone calls – local, long

distance and international – over the Internet using your PC....In short, making voice phone calls was the first definition of Internet telephony. But then people started thinking of other things Internet telephony could become. For example, Internet telephony could let you talk to someone while the two of you worked on making perfect a document that was on both your screens. If the Internet could send email, people started thinking of sending fax, voice, video and imaging mail/messages...See, Gold, Packet Switching, Tier 1 and, for the best explanation, TAPI 3.0.” NEWTON’S TELECOM DICTIONARY at 448 (16th ed. 2000).

Newton’s Telecom Dictionary entry for “Internet Telephony” does not discuss or suggest the use of HTTP.

Additionally, Newton’s Telecom Dictionary’s entries for “Gold”, “Packet Switching”, “Tier 1” and “TAPI 3.0” also do not discuss or suggest the use of HTTP. The entry for TAPI 3.0 states, for example: “TAPI 3.0 is an evolutionary API providing convergence of both traditional PSTN telephony and IP Telephony.” NEWTON’S TELECOM DICTIONARY at 830.

Furthermore, Newton’s Telecom Dictionary’s entry for “Internet Suite of Protocols” also does not describe HTTP. Rather, the entry for “Internet Suite of Protocols” states in its entirety: “The combination of TCP (Transmission Control Protocol) and IP (Internet Protocol).” NEWTON’S TELECOM DICTIONARY at 448.

TCP exists in the Transport layer of the OSI model. IP exists in the Network layer of the OSI model. HTTP, on the other hand, exists in the Application layer of the OSI model. Therefore, HTTP runs “on top of” TCP/IP and, although the use of HTTP may imply the use of TCP/IP, the reverse is not true. This is evidenced by the TAPI 3.0 entry in Newton’s Telecom Dictionary, for example, which discusses using RTP (Real-Time Transport Protocol), *not* HTTP.

Accordingly, *Schuster*’s description of Internet telephony does not disclose or suggest “wherein the computed back-off time period is included in a header of the outgoing back-off

message and wherein the header is a hypertext transport protocol (HTTP) header” as required by each of the independent claims 1, 14, 24, 25, and 26.

Likewise, *Rosenberg*’s description of Internet telephony (see *Rosenberg*, Field of Invention) also does not disclose or suggest “wherein the computed back-off time period is included in a header of the outgoing back-off message and wherein the header is a hypertext transport protocol (HTTP) header” as required by each of the independent claims 1, 14, 24, 25, and 26.

*Pelissier*’s description of “a method for detection of stale cells following route changes in a data communication network” (see *Pelissier*, Technical Field) also does not describe or suggest the limitation of “wherein the computed back-off time period is included in a header of the outgoing back-off message and wherein the header is a hypertext transport protocol (HTTP) header” missing from *Schuster* and *Rosenberg* and required by the independent claims 1, 14, 24, 25, and 26.

Therefore, neither *Schuster* nor *Rosenberg* nor *Pelissier*, individually or in combination, disclose, suggest, or render obvious independent claims 1, 14, 24, 25, and 26.

Claims 3-7, 13, 17-18, 23, 28-31 and 34 depend, directly or indirectly, from one of the foregoing independent claims. Therefore, neither *Schuster* nor *Rosenberg* nor *Pelissier*, individually or in combination, disclose, suggest, or render obvious claims 3-7, 13, 17-18, 23 and 28-31 for at least the foregoing reasons as well.

Accordingly, Applicants respectfully submit that claims 1, 3-7, 13-15, 17, 18, 23-26, and 28-31, and 34 are in condition for allowance and respectfully request withdrawal of the rejections under 35 U.S.C. § 103.

### CONCLUSION

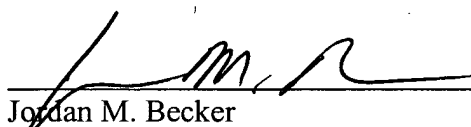
Applicants respectfully submit the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call Jordan Becker at (408) 720-8300.

Pursuant to 37 C.F.R. 1.136(a)(3), Applicants hereby request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. 1.16 and 1.17, to Deposit Account No. 02-2666.

Respectfully submitted,

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Date: 3/1/06

  
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